

REMARKS

Reconsideration and removal of the grounds for rejection are respectfully requested.

Claims 1-8 were in the application, claims 1-8 were cancelled, without prejudice, and new claims 9-16 substituted therefore.

Per the examiner's suggestion, a new title has been adopted and subheadings incorporated into the specification. The summary portions of the specification were modified to avoid references to specific claims for clarity. No new matter is involved in these amendments.

The claims were objected to for various informalities and rejected under 35 U.S.C. §112 second paragraph as being indefinite, which are now mooted by the cancellation of claims 1-8. The comments of the examiner were utilized in formulating new claims 9-16.

Claims 1, 2 and 5-8 were rejected as being obvious over Dysarz (4,065,934) in view of Hellerman (4,040,265).

It is not within the framework of 35 U.S.C. §103 to pick and choose from the prior art only so much as will support a holding of obviousness to the exclusion of other parts necessary for a full appreciation of what the prior art teaches or suggests, as hindsight is not the test. In re Wesslau, 353 F.2d 238 (CCPA 1965). "Both the suggestion and the expectation of success must be found in the prior art, not in the applicant's disclosure". In re Dow Chemical Co., 837 F.2d 469 (Fed. Cir. 1988). "Citing references which merely indicate that isolated elements and/or features recited in the claims are known is not a sufficient basis for concluding that the combination of claimed elements would have been obvious. This is to say, there must be something in the prior art or a convincing line or reasoning in the answer suggesting the desirability of combining the reference in such a manner as to arrive at the claimed invention." Ex parte Hiyamzu, 10 USPQ 2d 1393 (POBA 1988).

It is clear that the examiner is picking and choosing elements from the prior art in a hindsight reconstruction of the applicant's invention, without any teaching suggestion or incentive to do so.

Dysarz is directed to a drilling platform that can be raised so that a ship can get beneath the rig for transportation. Once positioned, the rig is lowered onto the ship, the legs are picked up and the rig is moved.

Nowhere in Dysarz is there any teaching or suggestion for mounting legs onto the ship itself, or for the lifting of the ship as described in relation to the present invention.

The examiner's reliance on Hellerman for this teaching is clearly misplaced. Hellerman is directed to a grouping of elongated support legs adapted to a rest on the floor of a body of water, having an opening network support structure, the legs arranged to define a through passage suitable to accommodate a barge, allowing the barge to move into position above the platform which has been lowered into the water so that the barge can be lifted up with the platform. (Col. 5, lines 13-20).

It is difficult to conceive how Hellerman teaches or suggests the applicant's invention. A combination with Dysarz is impractical - Dysarz describes having a ship located beneath a platform to lift a rig for transport; Hellerman describes a stationary rig that has a barge received above the platform, and then the barge is lifted with the platform. In neither patent is there any teaching, suggestion or even an inference that support legs could or should be mounted on a ship. In essence, there is no platform whatsoever in the applicant's invention. Certainly, there is nothing to suggest stabilizing a ship using such ship mounted legs to enable a crane to operate on the ship free of wave induced instability. (Spec. P. 2, L. 21-27).

The examiner's suggested combination of lifting mechanisms fails to arrive at the

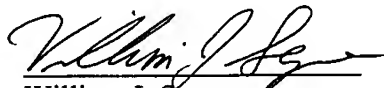
applicant's invention, and claims 9-16 are believed patentable thereover.

Claim 3 was rejected over Dysarz, as modified by Hellerman and further in view of Collins (U.S. 4,473,256). However, the chisel barge of Collins is not raised or lowered relative to the water surface, and has no relevance to the applicant's invention, nor even to the primary and secondary references. Again, there is no teaching or suggestion supporting the combination, and the examiner is improperly picking and choosing elements from the prior art. Consequently it is believed that claim 3, now claim 11, is patentable over the cited art.

Claim 4 was rejected over Dysarz in view of Hellerman and Blanford (U.S. 5,964,450). As the combination fails to teach or suggest a ship having support legs mounted thereon in accordance with new claim 9, claim 12, which depends from and contains all the limitations therein is clearly patentable over the cited art.

Based on the above amendments and remarks, reconsideration and allowance of the application is respectfully requested. However should the examiner believe that direct contact with the applicant's attorney would advance the prosecution of the application, the examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,



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